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FISH & RICHARDSON P.C.
1425 K STREET, N.W.
11TH FLOOR
WASHINGTON, DC 20005-3500

In re Application of: KOBATA, et al.
Application No. 09/258,609
Filed: February 26, 1999
For: ELECTRONIC PARCEL DELIVERY
SYSTEM

MAILED
JUN 25 2005
Technology Center 2100

DECISION ON PETITION
UNDER 37 CFR § 1.181 TO
WITHDRAW HOLDING
OF ABANDONMENT

This is a decision on the petition under 37 CFR § 1.181 to withdraw the holding of abandonment of the above-identified application filed 25 March 2005.

The petition is **DISMISSED**.

The application was held abandoned for failure to timely file a proper reply to the Office letter mailed on 12 February 2004. A Notice of Abandonment was mailed 16 February 2005. The Notice of Abandonment indicated that replies were received on 12 August 2004 and 10 December 2004 but that these did not constitute a proper reply, or a bona fide attempt at a proper reply, because they were not properly signed by a person having authority to prosecute the application.

The amendment filed 12 August 2004 and the amendment filed 10 December 2004 were both signed by one of the inventors, Mr. Robert Gagne, of Atabok, Inc. However, the right of Atabok, Inc. to take action had not been established.

Ownership must be established under 37 CFR 3.73(b) when the assignee signs a reply to an Office action. MPEP § 324, *II. Establishing Ownership, When Ownership Must be Established*. The assignee's ownership may be established by submitting to the Office either documentary evidence of a chain of title from the original owner to the assignee or a statement specifying, by reel and frame number, where such evidence is recorded in the Office. 37 CFR 3.73(b). "Once 37 CFR 3.73(b) is complied with by an assignee, that assignee may continue to take action in that application, patent, or reexamination proceeding without filing a 37 CFR 3.73(b) submission each time, provided that ownership has not changed." (emphasis added) MPEP § 324, *II. Establishing Ownership*.

On 03 January 2000, applicants established the right of the assignee, E-PARCEL, LLC to take action in this application with a filing under 37 CFR 3.73(b). That paper granted a power of attorney to Mr. John F. Hayden of Fish & Richardson, P.C. Ownership apparently changed three times since then but not a single new 37 CFR 3.73(b) submission was filed. Moreover, the assignee attempting to take action in the

correspondence mailed 12 August 2004 and 10 December 2004, Atabok, Inc., does not even appear to have been the assignee when the correspondence was filed. Rather, Atabok Japan, Inc. appears to have been the assignee.

Accordingly, the petition is **DISMISSED**.

If the petition desires further review of this Decision, applicant should consider filing a Request for Reconsideration within 2 months of the mailing date of this Decision.

Pinchus M. Laufer

Pinchus M. Laufer
Special Program Examiner
Technology Center 2100
Computer Architecture, Software and Information Security
571-272-3599

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